Opinions for the week of April 12 – April 16, 2021

Terry L. Lymon v. United Auto Workers Union Local 2209 No. 20-3022
Submitted April 12, 2021 — Decided April 12, 2021
Case Type: Civil
Northern District of Indiana, Fort Wayne Division. No. 1:20-cv-00169-HAB-SLC — **Holly A. Brady**, *Judge*.
Before ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER
Terry Lymon, who is African American, asked his union to pursue a grievance about his employment discharge. The union agreed but, despite Lymon's inquiries, it never told him that it left idle and then, three years later, dropped his grievance. The union kept the grievance's status secret from Lymon for another four years, until its new leader finally answered Lyman's questions about his grievance. Lymon promptly pursued an appeal within the union, filed an administrative charge of discrimination with the Equal Employment Opportunity Commission within 300 days of that appeal, and then sued the union for race discrimination and breach of its duty of fair representation. The district court dismissed the case on the pleadings, reasoning that the claims were either time-barred by the seven-year gap or outside the scope of Lymon's charge to the EEOC. If Lymon can prove his allegation that, through no fault of his own, the union intentionally kept him in the dark about its handling of the grievance for seven years, equitable tolling can save his race-discrimination claims; further, his EEOC charge exhausted his race claims. Thus, we vacate the judgment in part and remand.

Alice Jeffries v. Carlotta Adams No. 20-2929
Submitted April 12, 2021 — Decided April 12, 2021
Case Type: Civil
Northern District of Indiana, Hammond Division. No. 2:19-cv-329-TLS-JEM — **Theresa L. Springmann**, *Judge*.
Before ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER
Alice Jeffries appeals the dismissal of her lawsuit for failure to prosecute. The district court had dismissed her case after she repeatedly missed conferences and failed to comply with court directives. Because the district court warned Jeffries multiple times of the consequences of her noncompliance and appropriately exercised its discretion to dismiss the case, we affirm.

USA v. Willie Haynes No. 20-2862
Submitted April 12, 2021 — Decided April 12, 2021
Case Type: Criminal
Northern District of Illinois, Western Division. No. 15 CR 50022 — **Philip G. Reinhard**, *Judge*.
Before ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER
Willie Haynes, a federal inmate suffering from hypertension and obesity, sought compassionate release under 18 U.S.C. § 3582(c)(1)(a)(i) because of his increased risk of severe complications if he contracts COVID-19. The district court acknowledged the severity of Haynes's medical conditions in light of the pandemic but concluded that the sentencing factors under 18 U.S.C. § 3553(a) weighed against his release. Because the court did not abuse its discretion in denying the motion, we affirm.

James Curtis v. Lisa Schwartz No. 20-2636

Submitted April 12, 2021 — Decided April 12, 2021
Case Type: Civil
Eastern District of Wisconsin. No. 18-CV-1822 — **William E. Duffin**, *Magistrate Judge*.
Before ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER
While James Curtis was on probation for driving while intoxicated, he repeatedly failed his mandatory alcohol tests. As a result, he was jailed twice and ultimately spent 90 days in a treatment facility. Curtis, who had filed many grievances during his term of supervision, sued his probation officers for retaliation and administrators at the Wisconsin Department of Corrections for failing to intervene. The district court entered summary judgment for the defendants. We affirm.

USA v. Jeremy Culver No. 20-2568
Submitted April 12, 2021 — Decided April 12, 2021
Case Type: Criminal
Northern District of Indiana, Hammond Division. No. 2:12cr61 RLM — **Robert L. Miller**, *Judge*.
Before ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER
Jeremy Culver is a federal inmate serving a thirty-year sentence for producing and distributing child pornography. He groomed a young boy whom he mentored through the Big Brothers, Big Sisters organization, then molested and took sexually explicit photos and videos of the boy for years. Culver asked the district court for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i), citing his numerous health conditions. The court denied the motion, finding that, despite these conditions, the sentencing factors of 18 U.S.C. § 3553(a)—particularly the nature of his offense and the need to protect the public—weighed against release. Because the court's factual findings were proper and it reasonably exercised its discretion in denying the motion, we affirm.

USA v. Citrick Davis No. 20-2501
Submitted April 12, 2021 — Decided April 12, 2021
Case Type: Criminal
Central District of Illinois. No. 09-cr-40094 — **Joe Billy McDade**, *Judge*.
Before ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER
Several years after he was convicted of a cocaine-base (or "crack") offense, Citrick Davis moved for a reduction of his sentence under the First Step Act, Pub. L. No. 115-391, §404, 132 Stat. 5194, 5222 (2018).The district court shortened Davis's sentence, but because a reduction to the full extent that Davis requested would not adequately reflect the seriousness of his offense or deter similar misconduct, the court did not grant the full request. That decision was a reasonable exercise of discretion, so we affirm.

Jennifer A. Hadsall v. Sunbelt Rentals, Inc. No. 20-2482
Argued January 22, 2021 — Decided April 12, 2021
Case Type: Civil
Eastern District of Wisconsin. No. 2:20-cv-00181-JPS — **J.P. Stadtmueller**, *Judge*.
Before RIPPLE, KANNE, and SCUDDER, *Circuit Judges*.

PER CURIAM. Jennifer Hadsall, Regional Director of the National Labor Relations Board, filed a petition in the district court for a temporary injunction under section 10(j) of the National Labor Relations Act, 29 U.S.C. § 160(j),1 pending the Board's resolution of unfair labor practices charges against Sunbelt

Rentals, Inc. After the Director's petition was filed, the administrative law judge in the Board proceeding issued its recommendation order, concluding that Sunbelt had violated sections 8(a)(1), (3), and (5) of the Act. Before the district court, the Director submitted that Sunbelt had violated, and continued to violate, sections 8(a)(1), (3), and (5) of the Act, by interfering with, restraining, and coercing employees in the exercise of their rights under the Act; discriminatorily eliminating the bargaining unit; and failing and refusing to bargain collectively and in good faith. The Director requested a temporary injunction order requiring good faith interim bargaining and restoration of the bargaining unit work. On August 7, 2020, the district court granted the Director's petition for an injunction under section 10(j), ordering Sunbelt to cease and desist from certain unfair labor practices. Sunbelt appealed the district court's order to this court. While this case was under advisement, the Board issued its decision and order on March 29, 2021. The Director then filed a motion to dismiss this appeal of the injunction as moot. In response, Sunbelt submitted that this appeal was not moot because the Board had severed and retained one issue for further consideration, and therefore had not yet issued a full and final resolution of the case…The fact that the Board severed one issue from the case and retained it for further consideration does not affect the applicability of these principles to the present case. The severed issue was not one presented to the district court in the Director's petition for an injunction…Accordingly, we dismiss the appeal as moot and remand the case to the district court with directions to vacate its judgment and to dismiss as moot the Director's petition.

USA v. Tyrone Perry No. 20-2340
Submitted April 12, 2021 — Decided April 12, 2021
Case Type: Criminal
Northern District of Indiana, Hammond Division. No. 2:19CR68-001 — **Philip P. Simon**, *Judge*.
Before ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER
Tyrone Perry sold cocaine and heroin to a confidential informant on four separate occasions. A grand jury charged him with four counts of distributing a controlled substance, 21 U.S.C. § 841(a)(1), and one count of possessing a firearm as a felon, 18 U.S.C. § 922(g)(1). Perry pleaded guilty to one count of distributing heroin and cocaine, and his plea agreement included a broad waiver of his right to appeal his conviction and sentence "on any ground" other than ineffective assistance of counsel. The district court sentenced Perry, a career offender, to a below-guidelines sentence of 108 months' imprisonment. Perry appealed, but his appointed counsel asserts that the appeal is frivolous and moves to withdraw... Perry has not responded to counsel's motion. *See* CIR.R.51(b). Counsel's brief explains the nature of the case and addresses the potential issues that an appeal of this kind might involve. Because the analysis appears thorough, we limit our review to the subjects that she discusses… Accordingly, we GRANT counsel's motion to withdraw and DISMISS the appeal.

City of Chicago v. Robbin L. Fulton, Jason Howard, George Peake, & Timothy Shannon & Nos. 18-2527, 18-2793, 18-2835, & 18-3023
Submitted March 9, 2021 — Decided April 12, 2021
Case Type: Bankruptcy
U.S. Bankruptcy Court for the Northern District of Illinois, Eastern Division. No. 18-02860 — **Jack B. Schmetterer**, *Bankruptcy Judge*; No. 17-25141 — **Jacqueline P. Cox**, *Bankruptcy Judge*; No. 18-16544 — **Deborah L. Thorne**, *Bankruptcy Judge*; No. 18-04116 — **Carol A. Doyle**, *Bankruptcy Judge*.
Before JOEL M. FLAUM, *Circuit Judge*; MICHAEL S. KANNE, *Circuit Judge*; MICHAEL Y. SCUDDER, *Circuit Judge*.

ORDER
This appeal returns to us on remand from the Supreme Court of the United States. In 2019, we considered this consolidated direct appeal of four Chapter 13 bankruptcies filed by debtors Robbin Fulton, Jason Scott Howard, George Peake, and Timothy Shannon. Prior to the debtors' bankruptcy filings, the City of Chicago had impounded the vehicles of all four debtors for failure to pay multiple traffic fines. After

the debtors filed their bankruptcy petitions, the City refused to return the vehicles, claiming it needed to maintain possession to continue perfection of its possessory lien on the vehicles and that it would only return the vehicles when the debtors paid in full their outstanding fines. Relying on *Thompson v. General Motors Acceptance Corp.*, 566 F.3d 699 (7th Cir. 2009) and 11 U.S.C. § 362(a)(3), we affirmed the bankruptcy courts' conclusions that the City violated the Bankruptcy Code's automatic stay by exercising control over property of the bankruptcy estate and that none of the exceptions to the stay applied…This Court explicitly did not reach violation theories grounded in § 362(a)(4) or (a)(6). Id. at 926 n.1 ("Because the City is bound by the stay under § 362(a)(3), we do not reach the applicability of the additional stay provisions."). The City petitioned for a writ of certiorari. The Supreme Court granted the petition to consider whether an entity violates § 362(a)(3) by retaining possession of a debtor's property after a bankruptcy petition is filed. Holding "only that mere retention of estate property after the filing of a bankruptcy petition does not violate § 362(a)(3) of the Bankruptcy Code," the Supreme Court vacated our initial decision and remanded for further proceedings. *Fulton*,141 S. Ct. at 592… Therefore, with our prior judgment now vacated, we REMAND to the relevant bankruptcy courts *In re Shannon* and *In re Fulton* for further proceedings consistent with the Supreme Court's decision and further REMAND *In re Peake* and *In re Howard* with instructions to vacate their respective judgments.

Dequarius Fitzpatrick v. Colin Fruehbrodt No. 20-2920
Submitted April 2, 2021 — Decided April 13, 2021
Case Type: Prisoner
Eastern Division of Wisconsin. No. 20-C-1177 — **William C. Griesbach**, *Judge*.
Before DIANE S. SYKES, *Chief Judge*; MICHAEL S. KANNE, *Circuit Judge*; DIANE P. WOOD, *Circuit Judge*.

ORDER
Dequarius Fitzpatrick, a Wisconsin inmate, contends that two correctional officers used excessive force against him in violation of his Eighth Amendment rights. The district court entered summary judgment for the officers because Fitzpatrick filed an untimely grievance with the prison and thus did not exhaust his administrative remedies, as required by the Prison Litigation Reform Act. See 42 U.S.C. § 1997e(a). Because the undisputed evidence shows that Fitzpatrick filed his grievance too late to exhaust, we affirm.

Brandi McGhee v. Marilyn Marshall No. 20-2544
Submitted April 2, 2021 — Decided April 13, 2021
Case Type: Bankruptcy
Northern District of Illinois, Eastern Division. No. 19 C 8001 — **Robert W. Gettleman**, *Judge*.
Before DIANE S. SYKES, *Chief Judge*; MICHAEL S. KANNE, *Circuit Judge*; DIANE P. WOOD, *Circuit Judge*.

ORDER
After the district court gave Brandi McGhee more than four extra months to file the brief in her bankruptcy appeal, it dismissed the appeal for failure to prosecute when McGhee missed that extended deadline with no explanation. McGhee unsuccessfully moved the court to reopen the case, asserting that she did not know the court was open during the COVID-19 pandemic. But because McGhee was responsible for monitoring her case's docket, which stated that the court was open and her briefs were due, the district court did not abuse its discretion by dismissing the case or refusing to reopen it…The district court's judgment is AFFIRMED.

William Viehweg v. Sirius XM Radio, Inc. No. 20-2166
Submitted April 2, 2021 — Decided April 13, 2021
Case Type: Civil
Central District of Illinois. No. 17-3140 — **Richard Mills**, *Judge*.
Before DIANE S. SYKES, *Chief Judge*; MICHAEL S. KANNE, *Circuit Judge*; DIANE P. WOOD, *Circuit Judge*.

ORDER
William Herman Viehweg sued Sirius XM Radio for defamation, claiming that during a phone call it had falsely accused him of identity theft. Because the transcript of the call showed that Sirius had not defamed Viehweg, the district court entered summary judgment for Sirius. On appeal, Viehweg challenges that decision and some earlier orders. But because no evidence supports a claim of defamation and the district court did not commit reversible error in its other rulings, we affirm.

Antonio Blanchard v. John Varga No. 20-1671
Submitted April 2, 2021 — Decided April 13, 2021
Case Type: Prisoner
Northern District of Illinois, Western Division. No. 20 C 50015 — **Philip G. Reinhard**, *Judge*.
Before DIANE S. SYKES, *Chief Judge*; MICHAEL S. KANNE, *Circuit Judge*; DIANE P. WOOD, *Circuit Judge*.

ORDER
Antonio Blanchard, an Illinois prisoner whose state conviction led to a federal parole violation warrant, filed this petition under 28 U.S.C. § 2241 challenging the U.S. Parole Commission's failure to conduct a prompt revocation hearing. The district court dismissed the petition for lack of subject matter jurisdiction, finding that Blanchard was not "in custody" of the Commission. We disagree on that point, but the case cannot proceed because Blanchard named respondents with no control over his potential future custody. We therefore affirm the district court's dismissal of the petition without prejudice to Blanchard's ability to seek relief from the proper custodian.

Roderick Lewis v. Dushan Zatecky No. 20-1642
Argued September 30, 2020 — Decided April 13, 2021
Case Type: Prisoner
Southern District of Indiana, Indianapolis Division. No. 1:19-cv-01515-RLY-MPB — **Richard L. Young**, *Judge*.
Before SYKES, *Chief Judge*, and WOOD and BRENNAN, *Circuit Judges*.
BRENNAN, *Circuit Judge*, dissenting.

WOOD*, Circuit Judge*. When has a client charged with a serious crime received not merely inadequate assistance of counsel, but a failure of representation so serious that "counsel has entirely failed to function as the client's advocate" ? *Florida v. Nixon*, 543 U.S. 175, 189 (2004). This is the situation the Supreme Court first addressed in *United States v. Cronic*, 466 U.S. 648 (1984). Although such a total breakdown is rare, the Court has never wavered from the recognition that it can occur. In such cases, unlike those presenting more conventional ineffective-assistance claims, the defendant does not need to make an independent showing of prejudice. See *Strickland v. Washington*, 466 U.S. 668 (1984). The failing is so profound that prejudice is inherent in the situation. In the case before us, Roderick Lewis argues that his is one of the extraordinary cases to which the *Cronic* rule applies. Standing convicted of felony murder, he received literally no assistance from his lawyer during the sentencing stage of the trial. After proceedings in the state courts, which we detail below, he turned to federal court and filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. The district court denied relief, but it issued a certificate of appealability to Lewis. We conclude that the decision of the last responsible state court was contrary to Supreme Court precedent, insofar as it held that *Strickland*, not *Cronic*, furnished the applicable rule, and it was an unreasonable application of *Cronic*, insofar as it focused on that case. We thus reverse and remand for issuance of the writ, limited to sentencing.

David Bentz v. Donald Lindenberg No. 19-2564
Submitted April 12, 2021 — Decided April 13, 2021
Case Type: Prisoner

Southern District of Illinois. No. 3:15-CV-121-NJR-MAB — **Nancy J. Rosenstengel**, *Chief Judge*.
Before ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER
David Bentz, an Illinois prisoner, asserts in this suit under 42 U.S.C. § 1983 that two correctional officers unlawfully attacked him in the medical unit and then denied him medical care for his injuries. With the assistance of recruited counsel, Bentz's case went to trial, and Bentz lost. He unsuccessfully moved the district court for a new trial, principally arguing that the defendants had wrongly withheld medical logs and video evidence of the incident and then lied about that evidence. Because the court did not abuse its discretion in ruling that Bentz had not shown a discovery violation or perjury, we affirm.

Deborah Morgan v. Andrew Saul No. 20-2570
Argued January 22, 2021 — Decided April 14, 2021
Case Type: Civil
Southern District of Indiana, Indianapolis Division. No. 19-cv-4263 — **Tim A. Baker**, *Magistrate Judge*.
Before RIPPLE, KANNE, and SCUDDER, *Circuit Judges*.

KANNE, *Circuit Judge*. After a hearing, an administrative law judge considered a great deal of evidence to determine that the Plaintiff has the capacity to perform light work and thus is not entitled to disability benefits. Plaintiff argues that the ALJ's decision was wrong because the ALJ selectively reviewed evidence concerning her neck and back problems; inaccurately assessed the intensity, persistence, and limiting effects of her symptoms; and failed to include certain manipulative limitations in her residual functional capacity assessment and in the hypothetical questions posed to a vocational expert. These arguments are not persuasive. The ALJ did not ignore a line of evidence contradicting her decision, her assessment of Plaintiff's symptoms was not patently wrong, and she did not fail to note any supported manipulative limitations. The ALJ's decision was thus supported by substantial evidence, and we affirm the decision of the district court denying Plaintiff's request for a remand.

USA v. Jeremy Outland No. 20-1160
Argued January 22, 2021 — Decided April 14, 2021
Case Type: Criminal
Central District of Illinois. No. 3:17-cr-30073 — **Sue E. Myerscough**, *Judge*.
Before RIPPLE, KANNE, and SCUDDER, *Circuit Judges*.

SCUDDER, *Circuit Judge*. Shortly after police arrested him for suspected drug dealing, Jeremy Outland overdosed on heroin and fell unconscious. The officers brought Outland to a local hospital where, after receiving care, he agreed to talk to the police, received *Miranda* warnings, and made several incriminating statements which led to federal charges for distributing heroin. Outland moved to suppress his statements, arguing that he was in no condition at the hospital either to knowingly and intelligently waive his *Miranda* rights or to otherwise give voluntary statements to the police. The district court denied Outland's motion, finding that his statements were voluntary. At no point, though, did the district court analyze or answer whether Outland knowingly and intelligently waived his *Miranda* rights. The questions are not one and the same: to the contrary, whether a defendant knowingly and intelligently waived his rights at the outset of a police interview is a distinct and separate inquiry from whether, in the circumstances of the interview as a whole, the defendant's statements were voluntary. Given that Outland was unconscious and entirely incapacitated from an overdose just two hours before police questioned him, a finding on the former question matters. We therefore remand for the district court to make a determination on the validity of Outland's *Miranda* waiver in the first instance.

Glenn Burton, Jr., Ravon Owens, and Cesar Sifuentes v. E.I. DuPont de Nemours and Company, Sherwin-Williams Company, and Armstrong Containers Inc. Nos. 20-1774, 20-1776, 20-1777, 20-1780, 20-1781, 20-1782, 20-1783, 20-1784, & 20-1785

Argued December 9, 2020 — Decided April 15, 2021
Case Type: Civil
Eastern District of Wisconsin. Nos. 07-CV-0303, 07-CV-0441, 10-CV-0075 — **Lynn Adelman**, *Judge*.
Before WOOD, SCUDDER, and ST. EVE, *Circuit Judges*.

ST. EVE, *Circuit Judge*. These sprawling toxic-tort cases take us into the weeds of Wisconsin products liability law… The plaintiffs in these consolidated cases are three young men who grew up in Milwaukee homes that had lead-based paint on the walls. They were diagnosed with lead poisoning as young children in the 1990s or early 2000s. Years later, they filed these lawsuits against several manufacturers of white lead carbonate, seeking compensation for brain damage and other injuries resulting from their ingestion of lead paint particles. The plaintiffs identified the paint pigment in their childhood homes as white lead carbonate, but they could not identify the specific company responsible for manufacturing the white lead carbonate that they ingested. To overcome this failure of proof, they relied on *Thomas ex rel. Gramling v. Mallett*, 701 N.W.2d 523 (Wis. 2005), in which the Wisconsin Supreme Court adopted a "risk-contribution" theory of liability for plaintiffs suing manufacturers of white lead carbonate. The risk-contribution theory modifies the ordinary rule in tort law that a plaintiff must prove that a specific defendant's conduct caused his injury. It instead seeks to apportion liability among the "pool of defendants" who could have caused the injury. After years of pretrial litigation, the plaintiffs went to trial against five manufacturers of white lead carbonate. The jury found three of the manufacturers liable and awarded the plaintiffs $2 million each. The three defendants found liable (E.I. du Pont de Nemours and Company, Inc., the Sherwin-Williams Company, and Armstrong Containers, Inc.) now appeal. They challenge a long list of the district court's pretrial, trial, and post-trial rulings. We see no error in many of these rulings, and we commend the district court for its thoughtful attention and diligent effort throughout this complex case. Nonetheless, we hold that the court committed three significant legal errors about the scope of Wisconsin products liability law. These errors shaped the trial and impermissibly expanded the defendants' potential liability. Along with a separate error in the admission of certain expert testimony, they compel us to reverse the judgments and remand for further proceedings.

USA v. Brian Redden No. 20-2456
Submitted April 2, 2021 — Decided April 16, 2021
Case Type: Criminal
Southern District of Illinois. No. 19-CR-30124-NJR-01 — **Nancy J. Rosenstengel**, *Chief Judge*.
Before DIANE S. SYKES, *Chief Judge*; MICHAEL S. KANNE, *Circuit Judge*; DIANE P. WOOD, *Circuit Judge*.

ORDER
While serving a federal sentence for a drug offense, Brian Redden was caught with Suboxone and later pleaded guilty to possessing a prohibited object while incarcerated. *See* 18 U.S.C. § 1791(a)(2), (b)(1). The district court sentenced him within the guidelines range to an additional 27 months in prison. Redden appealed, but his appointed counsel asserts that the appeal is frivolous and seeks to withdraw... Counsel's brief explains the nature of the case and addresses the issues that an appeal of this kind might be expected to involve. Because the analysis appears thorough and Redden has not responded to the motion, *see* CIR. R. 51(b), we limit our review to the subjects that counsel discusses… we GRANT counsel's motion to withdraw and DISMISS the appeal.

USA v. Marcus Pompy No. 20-2228
Submitted April 12, 2021 — Decided April 16, 2021
Case Type: Criminal
Northern District of Indiana, Hammond Division. No. 2:19CR73-001 — **James T. Moody**, *Judge*.
Before ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER

After Marcus Pompy pistol-whipped a victim, he pleaded guilty to one count of unlawful possession of a firearm as a felon, 18 U.S.C. § 922(g)(1), and was sentenced within the Guidelines to 57 months' imprisonment followed by two years' supervised release. Pompy's plea agreement contains a broad appellate waiver, but he filed a notice of appeal anyway. His appointed counsel asserts that the appeal is frivolous and moves to withdraw... Pompy did not respond to counsel's motion. *See* CIR. R. 51(b). Counsel's brief explains the nature of the case and addresses the potential issues that an appeal of this kind might involve. Because the analysis appears thorough, we limit our review to the potential arguments counsel discusses… we GRANT counsel's motion to withdraw and DISMISS the appeal.

USA v. Janhoi Cole No. 20-2105
Argued January 19, 2021 — Decided April 16, 2021
Case Type: Criminal
Central District of Illinois. No. 3:18-cr-30038-RM-TSH-1 — **Richard Mills**, *Judge*.
Before ROVNER, HAMILTON, and ST. EVE, *Circuit Judges*.
ST. EVE, *Circuit Judge*, dissenting.

HAMILTON, *Circuit Judge*. In this appeal we deal with a pre-textual traffic stop for purposes of drug interdiction. Even assuming that the stop was permissible at the outset, the record shows that the officer prolonged the stop by questioning the driver at length on subjects going well beyond the legal justification for the stop. Under *Rodriguez v. United States*, 575 U.S. 348 (2015), prolonging the stop violated the Fourth Amendment and requires suppression of evidence found much later as a result of the actions that prolonged the stop… We REVERSE the denial of Mr. Cole's motion to suppress and REMAND the case for further proceedings where Mr. Cole may withdraw his guilty plea that was conditioned on the admissibility of the evidence against him obtained through the unlawful seizure and subsequent searches.

Michael Shakman v. Clerk of Cook County No. 20-1828
Argued November 10, 2020 — Decided April 16, 2021
Case Type: Civil
Northern District of Illinois, Eastern Division. No. 1:69-cv-02145 — **Sidney I. Schenkier**, *Magistrate Judge*.
Before EASTERBROOK, KANNE, and SCUDDER, *Circuit Judges*.

SCUDDER, *Circuit Judge*. This appeal returns us to consent decrees—the so-called Shakman Decrees—entered in 1972 and 1991 to monitor political patronage practices in Chicago. The Clerk of Cook County remains subject to the Consent Decrees to this day. Before us is the Clerk's appeal from a decision finding recent violations of the Consent Decrees, appointing a special master to monitor the Clerk's future compliance, and refusing the Clerk's request to vacate the Decrees. While we lack authority to review the appointment of the special master, we affirm the denial of the Clerk's request to vacate.

Hector Arevalo-Carrasco v. Middleby Corporation No. 20-1823
Submitted April 2, 2021 — Decided April 16, 2021
Case Type: Civil
Northern District of Illinois, Eastern Division. No. 18 CV 4528 — **Manish S. Shah**, *Judge*.
Before DIANE S. SYKES, *Chief Judge*; MICHAEL S. KANNE, *Circuit Judge*; DIANE P. WOOD, *Circuit Judge*.

ORDER
Hector Arevalo-Carrasco worked as a welder for Carter-Hoffman, a manufacturer, until he was fired in 2018 after two fights in the workplace. Arevalo sued his former employer and its parent company for retaliation, harassment, and discrimination based on sex, race, and national origin. The district court entered summary judgment for the defendants, concluding that some of Arevalo's claims were untimely and that he lacked sufficient evidence to support the others. We affirm.

Larry Harris v. Michael Dempsey No. 19-3070
Submitted April 2, 2021 — Decided April 16, 2021
Case Type: Prisoner
Central District of Illinois. No. 17-2010 — **Colin S. Bruce**, *Judge*.
Before DIANE S. SYKES, *Chief Judge*; MICHAEL S. KANNE, *Circuit Judge*; DIANE P. WOOD, *Circuit Judge*.

ORDER
Larry Harris, an Illinois inmate with a thyroid condition, contends that prison doctors and officials violated the Eighth Amendment by serving him a soy-based diet. Both sides moved for summary judgment, and the district court entered summary judgment for the defendants. Because no reasonable jury could find that the defendants deliberately ignored Harris's thyroid condition or his dietary needs, we affirm.

Kedron Jones, Jr., v. John Baldwin No. 19-3048
Submitted April 2, 2021 — Decided April 16, 2021
Case Type: Prisoner
Central District of Illinois. No. 16-CV-3143 — **Colin S. Bruce**, *Judge*.
Before DIANE S. SYKES, *Chief Judge*; MICHAEL S. KANNE, *Circuit Judge*; DIANE P. WOOD, *Circuit Judge*.

ORDER
Kedron Jones, a state inmate, sued prison administrators, alleging that they were deliberately indifferent to problems with the toilet in his cell. Jones filed his complaint pro se and moved the court to recruit pro bono counsel for him. The court denied the motion, instructing Jones to resubmit it with information the court needed in order to rule. Jones never did, but at the final pretrial conference, he again asked the court to recruit an attorney for him. The court demurred based on the scarcity of volunteer lawyers and its willingness to assist Jones with the procedural aspects of the trial. Jones lost his case at trial. On appeal, he challenges only the decisions not to recruit counsel. We see no abuse of discretion, so we affirm.

David Bentz v. Steven Newbold No. 19-1776
Submitted April 12, 2021 — Decided April 16, 2021
Case Type: Prisoner
Southern District of Illinois. No. 3:18-cv-00017-JPG-RJD — **J. Phil Gilbert**, *Judge*.
Before ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*; AMY J. ST. EVE, *Circuit Judge*.

ORDER
David Bentz, an Illinois inmate suing under 42 U.S.C. § 1983, appeals the district court's judgment that he did not exhaust administrative remedies on his claim against a prison dentist. After the dentist raised the lack of exhaustion as an affirmative defense, the court held an evidentiary hearing, *see Pavey v. Conley*, 544 F.3d 739, 742 (7th Cir. 2008), found that Bentz had not exhausted his administrative remedies, and dismissed the claim without prejudice. Because the court did not clearly err by crediting the dentist's evidence, we affirm.